REMARKS

The present application was filed on August 18, 2003 with claims 1 through 20. Claims 1 through 20 are presently pending in the above-identified patent application.

In the Office Action, the Examiner rejected claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Treadaway et al. (United States Patent No. 7,002,941) in view of Connor (United States Patent No. 7,061,866).

Independent Claims 1, 10 and 13

Independent claims 1, 10 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Treadaway et al. in view of Connor. With regard to claim 1, for example, the Examiner acknowledges that Treadaway does not explicitly show a size of said egress inter-packet gap is decreased to compensate for said frequency offset when said ingress local area network is faster than said egress local area network and is increased to compensate for said frequency offset when said egress local area network is faster than said ingress local area network. The Examiner asserts, however, that Connor teaches a method of dynamically metering packet flow in a packet switched network, which employs decreasing inter-frame spacing IFS or inter-packet gap (that) will increase data rate and increasing inter-frame spacing IFS (that) will decrease data rate (col. 3, lines 9-12, 19-20, and 49-51).

Each of the independent claims were previously amended to emphasize that the size of the egress inter-packet gap is increased or decreased to compensate for a frequency offset. For example, in claim 1, the size of the egress inter-packet gap is decreased when the ingress local area network is faster than the egress local area network and is increased to compensate for the frequency offset when the egress local area network is faster than the ingress local area network. In claim 8, the size of the egress inter-packet gap is less than a size of the ingress inter-packet gap when the ingress local area network is faster than the egress local area network and is greater than a size of the inter-packet gap when the egress local area network is faster than the ingress local area network.

Likewise, in claim 10, the size of the egress inter-packet gap is decreased based on the fill level when the ingress local area network is faster than the egress local area network and is increased based on the fill level when the egress local area network is faster than the ingress local area network.

In claim 12, the size of the egress inter-packet gap is reduced by deleting one or more idle symbols from the inter-packet gap when the ingress local area network is faster than the egress local area network and is increased by inserting one or more idle symbols in the inter-packet gap when the egress local area network is faster than the ingress local area network.

Finally, claim 13 was previously amended to emphasize that the size of the egress inter-packet gap is decreased to compensate for the frequency offset when the ingress local area network is faster than the egress local area network and is increased to compensate for the frequency offset when the egress local area network is faster than the ingress local area network.

In Treadaway, however, a packet retriever adjusts an inter-packet gap for the Fast Ethernet data packets according to an amount of space available in the packet buffer. The size of the inter-packet gap, however is always decreased, because by design, the frequency of the second clock signal is lower than the frequency of the first clock signal. See, Col. 4, lines 40-42. Treadaway is adjusting the frequency on the local area network (Fast Ethernet) to match the frequency of the metropolitan radio network. Treadaway assumes that the metropolitan network is always faster than the Fast Ethernet.

The ingress and egress local area networks of the present invention, on the other hand, are operating at similar nominal frequencies subject to a frequency offset within tolerances (see, page 6, lines 8-10, and page 7, line 30, to page 8, line 2). For example, the frequency of the egress local area network 160 may each be, for example, 10 Mbps, 100 Mbps or 1 Gbps (+/- 100 ppm). Thus, the expected worst-case frequency offset in the exemplary embodiment will be 200 ppm. The frequency offset can be in either direction, and the inter-packet gap is adjusted appropriately. This ability to accommodate positive or negative frequency offsets is not disclosed or suggested by Treadaway.

Furthermore, Connor adjusts an inter-packet gap based on a pause command, wherein the pause command is issued based on a fullness threshold of a receiver FIFO located in a remote receiver (col. 1, lines 32-40, and col. 2, lines 33-61). The receiver FIFO may exceed the fullness threshold due to a <u>*variety of causes*</u> other than a frequency offset, *including heavy loading of a receiver bus* in the <u>*remote*</u> *receiver* (col. 1, lines 58-67). Moreover, in Connor, when the fullness threshold is exceeded, the inter-packet gap of packets *being received by the remote receiver from a transmitter, is <u>increased</u>, thereby decreasing the rate of packets being received by the receiver buffer*. In the claimed aspect of the present invention, however, when

the fullness threshold is exceeded, the inter-packet gap of packets *transmitted from the buffer is decreased, thereby increasing the rate of packets leaving the buffer*. Thus, Connor *teaches away* from the present invention and *teaches away* from the Treadaway reference. A person of ordinary skill in the art would therefore *not* look to combine Treadaway and Connor.

Thus, even as combined in the manner suggested by the Examiner, Treadaway and Connor *do not teach every element of the independent claims*. Furthermore, based on the KSR considerations discussed hereinafter, the combination/modification suggested by the Examiner is not appropriate.

KSR Considerations

An Examiner must establish "an apparent reason to combine ... known elements." *KSR International Co. v. Teleflex Inc. (KSR)*, 550 U.S. ___, 82 USPQ2d 1385 (2007). Here, the Examiner merely states that the motivation "is to match the egress data rate to the link partner's ingress processing rate."

Applicants are claiming a new technique for compensating for a frequency offset between an ingress local area network and an egress local area network.

There is *no* suggestion in Treadaway and Connor, alone or in combination, to compensate for a frequency offset by *increasing or decreasing* an inter-packet gap of packets. In fact, as noted above, Connor *teaches away* from the Treadaway invention.

The *KSR* Court discussed in some detail United States v. Adams, 383 U.S. 39 (1966), stating in part that in that case, "[t]he Court relied upon the corollary principle that when the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be nonobvious." (KSR Opinion at p. 12). Thus, there is no reason to make the asserted combination/modification.

Thus, Treadaway and Connor, alone or in combination, do not disclose or suggest increasing and decreasing the size of the egress inter-packet gap to compensate for a frequency offset, as variously required by each independent claim (as outlined above)

Applicants respectfully request the withdrawal of the rejections of independent claims 1, 8, 10, 12 and 13.

Dependent Claims

Claims 2-7, 9, 11 and 14-20 are dependent on independent claims 1, 8, 10 and 13, respectively, and are therefore patentably distinguished over Treadaway and Connor, alone or in

combination, because of their dependency from independent claims 1, 8, 10 and 13 for the reasons set forth above, as well as other elements these claims add in combination to their base claim

Conclusion

All of the pending claims, i.e., claims 1-20, are in condition for allowance and such favorable action is earnestly solicited.

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number indicated below

The Examiner's attention to this matter is appreciated

Respectfully submitted,

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